Statement

of

U.S. Representative Gene Taylor
Fourth District, Mississippi

before the

Financial Services Committee
Subcommittee on Oversight and Investigations

regarding

Insurance Claims Payment Processes on the Gulf Coast

February 28, 2007

Thank you, Chairman Watt, for conducting this hearing and opening an investigation of insurance fraud after Hurricane Katrina. I am very grateful to you, Chairman Frank, and Chairwoman Waters for hearing my concerns and agreeing to pursue these important matters within the Financial Services Committee.

I will summarize my statement, but, if there are no objections, I would like to submit my full written statement for the record, to include copies of insurance documents and fraudulent engineering reports. These are samples of a much larger problem. I have additional documents on my website and will be happy to provide them to the committee.

After Katrina, several insurance companies conspired with engineering and adjusting firms to commit fraud against their policyholders and federal taxpayers.

Company officials instructed adjusters to assign all damages to the federally-backed National Flood Insurance Program in cases where wind caused much of the damage.

Engineering firms cherry-picked data and manipulated evidence to favor insurance companies.

Insurance, engineering, and adjusting company managers, who never laid eyes on the damaged properties, reversed the observations and conclusions of the engineers who conducted on-site damage assessments.

In light of these facts, I respectfully request that the Financial Services Committee take action on three specific issues, all of which fall under the Committee's jurisdiction. First, I ask the subcommittee to conduct a **full** investigation of the fraud against consumers and taxpayers so that the responsible parties can be held accountable for their actions.

Second, I look forward to working with you on a flood insurance reform bill to eliminate the conflict of interest that currently allows insurance companies to defraud U.S. taxpayers. To such ends, Congress should prohibit any company that participates in the

flood program from using anti-concurrent causation language to underhandedly bill taxpayers for wind damage.

Third, I urge the Committee's consideration of H.R. 920, the *Multiple Peril Insurance Act*. This bill – cosponsored by both Democrats and Republicans – would create a new option within the flood insurance program to allow property owners to purchase wind and flood coverage in one single policy.

As you know, the flood insurance program contracts with insurance companies to allow the companies to sell flood policies, which are guaranteed in turn by the federal government. The so-called "Write Your Own" Companies also agree to adjust the flood claims. As a cost-saving measure, NFIP allows the company to use a single adjuster for both claims. Any person with a shred of common sense can tell you that this practice creates an obvious conflict of interest. The current arrangement presents insurance companies with an easy opportunity to manipulate claims in order to bill the federal government and save insurance companies and their shareholders a great deal of money.

The contract between the insurance company and the flood insurance program requires the company to represent the interests of the federal government *and* its own interests when adjusting claims. The federal regulations state explicitly that "the primary relationship between the Write Your Own Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended." (44 CFR 62.23(f))

The federal regulations also state that "the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the Write Your Own Company." (44 CFR 62.23(i)(1))

Some insurance companies did not act in good faith to fulfill their fiduciary duty to federal taxpayers when adjusting combined wind and water claims after Hurricane Katrina. State Farm, Allstate, Nationwide, USAA, and other insurers adopted procedures that, *a priori*, attributed all damage in the surge area to flooding and then forced homeowners to prove otherwise.

Mississippi Insurance Commissioner George Dale issued a bulletin one week after Katrina, declaring that the insurance companies had to pay wind claims unless they could prove that flooding was the cause. The companies ignored the bulletin, and the state did nothing to enforce it. As a result, thousands of Mississippians had no choice but to sue to get their insurance companies to honor their contracts. Mississippi Attorney General Jim Hood also filed suit and began a state investigation.

Seventeen months after Katrina, U.S. District Judge L.T. Senter, Jr. affirmed in *Broussard v. State Farm* that the insurance companies have the burden of proof. State Farm had not proven its case. In response, the company ran to the *Wall Street Journal* editorial board and claimed that this was a radical ruling. In reality, insurance companies have always had the burden of proof when denying a claim, be it in Mississippi or any other state.

While several companies denied claims for wind damages inside the surge zone, State Farm was the most aggressive in its efforts to defraud their policyholders, using a network of selected contractors to act as accomplices.

On September 13, 2005 – two weeks after Katrina hit Mississippi – State Farm issued a directive from its headquarters in Bloomington, Illinois in a document titled "Wind-Water Claim Handling Protocol." The Wind-Water Protocol instructed State Farm adjusters that "[W]here wind acts concurrently with flooding to cause damage to the insured property, coverage for the loss exists only under flood coverage, if available."

In effect, the Wind-Water Protocol declared that State Farm's wind insurance would not pay for damage caused by wind when they could blame any amount of damage on flooding. Where wind and water both caused damage, adjusters were directed to bill the federal government and, by extension, taxpayers for the full loss if the property was covered by flood insurance.

State Farm's so called "anti-concurrent causation clause" should be called what it really is – a concurrent fraud clause. **Its purpose is to cheat both policyholders and taxpayers at the same time.** Any attempt to enforce this clause is a bad faith violation of the company's fiduciary duty to federal taxpayers under its contract with the National Flood Insurance Program.

State Farm will argue that it paid more than $1 billion in Katrina claims in Mississippi and settled more than 95% of its claims. Those numbers only help to prove the fraud that they categorically deny.

State Farm and other insurers paid wind claims in all 82 counties in Mississippi, as far as 300 miles inland. According to the insurance industry's own data, Katrina's winds caused billions of dollars of structural damage far beyond the storm surge area. Yet, near the coastline, where the strongest hurricane winds pounded homes for four to five hours before the storm surge, insurance companies manipulated the adjustment process to deny wind claims.

I urge the subcommittee to seek the testimony of Cori and Kerri Rigsby. The Rigsby sisters were claims adjusters working for E.A. Renfroe and Company. Renfroe worked exclusively for State Farm. The sisters were disturbed by the fraud being committed by State Farm and Renfroe officials, so they copied incriminating documents and gave them to federal and state law enforcement officials. The Scruggs Law Firm represents the sisters in a *False Claims Act* filing against State Farm and Renfroe. That federal fraud case is still active.

In response, Renfroe filed a retaliatory suit against the Rigsby sisters and obtained an injunction that required the sisters to return the copies of documents they provided to state and federal investigators. Because of the Renfroe suit, the only documents currently available to the public are those that are included in the *False Claims Act* filing.

These documents clearly demonstrate that Renfroe and State Farm covered up engineering reports that concluded – in the most explicit terms – that damage was caused by wind. Claims managers who never laid eyes on the damaged properties pressured engineers to revise their observations and conclusions. In some cases, claims managers sent a second engineer to write a report more favorable to State Farm.

The Rigsby sisters photocopied an engineering report with a handwritten note attached that said, "Put in Wind file – DO NOT Pay Bill. DO NOT discuss." That report concluded that first floor damage had been caused primarily by wind. State Farm hid that report and ordered a second report. The second engineer blamed the damage on flooding.

The Rigsby sisters report that, within days after Katrina, State Farm coached its adjusters to pay the policy limits on flood insurance without a site inspection or an engineering report. In sharp contrast, State Farm required an engineering report before paying any wind claims.

Each engineering firm was provided with an analysis by Haag Engineering of Dallas. State Farm and Haag have a long history together that includes bad faith judgments in the courts of several states. Most recently, State Farm, Haag, and Renfroe were found to have acted in bad faith to deny coverage of tornados in Oklahoma in 1999. Because of that verdict and the many complaints about Haag after Katrina, State Farm has been forced to temporarily suspend working with Haag.

Haag's Katrina report makes the ridiculous claims that the NOAA Hurricane Research Division overestimated the wind speeds by 25 percent, and that the U.S. Navy Meteorology and Oceanography Command missed the timing of the storm surge by one hour. Haag based its flawed conclusions on inland wind data because wind towers on the Mississippi Gulf Coast were knocked out by high winds. The Navy spent more than a month analyzing all available weather and ocean data to recreate Katrina's surge, but Haag dismissed the Navy's findings based on an amateur video filmed from a hotel parking garage.

Rimkus Consulting Group of Houston also investigated wind claims for State Farm and other insurance companies. Rimkus established an office in Ridgeland, Mississippi, near Jackson, about 150 miles inland. Rimkus engineers would conduct on-site assessments and email their reports to Ridgeland.

The Merlin Law Group has documented several cases in which the engineer who inspected the home site concluded that damage was caused by wind, but Rimkus staff in Ridgeland changed the observations and altered the conclusions in the reports without the knowledge or consent of the engineers who saw the properties first-hand. A few of the affected homeowners are here today to offer their accounts of Rimkus' fraudulent practices.

I encourage you to invite testimony from the engineers whose reports were revised without their consent. I have attached two Rimkus cases to my statement, but there are

several more on my website. These are only a few of the cases that clearly document the pervasive fraud perpetrated on homeowners and U.S. taxpayers alike. There are many more cases where the adjustment process was manipulated to defraud policyholders, but the fraud cannot be documented at this time.

Again, I thank you for holding this hearing and initiating this investigation. I look forward to working with you to ensure that consumers and taxpayers are protected from these fraudulent insurance practices in future disasters.